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Sale was ordered, at which W. O'Quinn purchased six tracts of land. Failing to pay purchase money, the land was resold, resulting in a deficit, for which judgment was taken against O'Quinn, which he paid in full, and between the time of sale and resale the Hazel Land Corporation purchased of the debtor certain other tracts, which were subsequently sold, resulting in a surplus, and O'Quinn petitioned to be reimbursed therefrom for the judgment he had paid, and from a decree sustaining a demurrer by the Hazel Land Corporation and others to the petition, and dismissing the petition, O'Quinn appeals. Affirmed.

W. B. Phipps, and *S. H. & G. C. Sutherland*, all of Clintwood, for appellant.

Chace & McCoy, of Clintwood, *Harman & Harman*, of Tazewell, for appellees.

ALLS et al. v. COMMONWEALTH.

Sent. 22, 1921.

[108 S. E. 645.]

1. Bail (§ 82*)—Need Not Show that Recognizance Sought to Be Forfeited Was in Legal Form.—The purpose of a writ of scire facias to forfeit a recognizance is merely to give notice to defendant of application for award of execution to enable him to show cause why the recognizance should not be forfeited, and it need not show on its face that the recognizance was in legal form, and need not recite all conditions of the recognizance, being sufficient if it identifies the recognizance.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 217, et seq.]

2. Bail (§§ 57, 58*)—Recognizance Held Valid.—A recognizance was not invalid because it did not require the defendant to appear before the court, or any court, but only before the judge, or because language therein, "to answer said indictment," was not sufficiently definite to identify the indictment, and hence not equivalent to statutory requirement that condition of recognizance should be that the defendant shall appear "to answer for the offense with which such person is charged," it appearing in the caption in which the form of the recognizance appeared that the indictment was for violation of the Prohibition Law, in view of Code 1919, §§ 4973, 4981.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 217, et seq.]

3. Bail (§ 58*)—Recognizance Need Only Point Out Offense.—If the language used in a recognizance is sufficiently definite to point

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

out the offense with which the person who is let to bail is charged, there is a compliance with Code 1919, § 4973.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 217, et seq.]

Appeal from Circuit Court, Montgomery County.

Proceeding by the Commonwealth against Leslie Alls and another to forfeit a recognizance. Judgment for the State, and defendants appeal. Affirmed.

V. M. Sowder, of Christiansburg, and *R. L. Jordan*, of Radford, for appellants.

John R. Saunders, *Atty. Gen.*, *J. D. Hank, Jr.*, *Asst. Atty. Gen.*, and *Leon B. Bazile*, *Second Asst. Atty. Gen.*, for the Commonwealth.

THACKER *v.* COMMONWEALTH.

Sept. 28, 1921.

[108 S. E. 559.]

1. Criminal Law (§ 304 (20)*)—Common Knowledge that Corn Whisky Is Intoxicating.—It is a matter of common knowledge that corn whisky is intoxicating

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 632.]

2. Intoxicating Liquors (§ 138*)—Fixed Destination Not Necessary to Constitute Unlawful "Transportation."—An ultimate destination at a fixed point is not necessary to constitute "transportation" within the prohibition statute.

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series, Transport—Transportation.]

3. Intoxicating Liquors (§ 138*)—Transportation Held Unlawful.—Transportation of corn whisky in an automobile to be drunk along the road by defendant and the friends who were riding with him held unlawful.

4. Intoxicating Liquors (§ 224*)—No Burden on Commonwealth to Show Quantity Unlawfully Transported.—In a prosecution for unlawfully transporting corn whisky, where it appeared that defendant took a half-gallon fruit jar of the whisky along on an automobile trip to be drunk along the road, there was no burden on the commonwealth to show that the jar contained more than a quart.

Error to Circuit Court, Alleghany County.

One Thacker was convicted of unlawful transportation of ardent spirits, and he brings error. Affirmed.

*For other cases see same topic and KEY-NUMBER in all Ket Numbered Digests and Indexes.